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James A. Hutchison

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

EXAMINER

PEREZ, ANGELICA

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/034,776
Filing Date: December 21, 2001
Appellant(s): HUTCHISON, JAMES A.

Espartaco Diaz Hidalgo
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/8/2008 appealing from the After Final
Office action mailed 9/20/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

0321672	LYNK	10-1988
2336975 A	STEVENS	4-1998
5594784	VELIUS	1-1997

20070005954 A1

SKEMER

1-2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 33 and 34 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either an asserted utility or a well established utility. To further clarify the language used, further changes are recommended, “carrying” must be “encoded with”. In addition, in order to maintain consistency with the specifications, it would desirable to change the previously proposed language “computer executable instructions” with “processor-readable instructions”, See the specification, paragraph 64.

Claim Rejections - 35 USC § 112

3. Rejection under 35 USC § 112 has been withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4-11, 14, 16, 20-21, 23-25, 33, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynk (Lynk, Charles N.; EP Application No.: 0,321,672 A2) in view of Stevens (Stevens, Robert David; GB Pub. No.: 2,336,975 A) and further in view of (MPEP 2144.03).

Regarding claims 1, 20, 33, 37 and 39, Lynk teaches of a method, device, wireless transmitter, processor and controller (figures 2 and 3; items 21, 47 and 35, respectively; abstract, lines 1-2) comprising: transmitting and receiving a request for access to a broadcast link in a point-to-multipoint communication system (column 5, line 35-38, column 2, lines 47-54 and figure 1; abstract, lines 1-8; e.g., "dispatch service" corresponds to a point-to-multipoint communication system). Lynk further teaches of receiving audio, where the audio includes speech, from a user of the wireless communication device, (where the Examiner has given a broad interpretation of the claim; therefore, the audio can be received anywhere in the system/network, the device can be receiving audio from the user).

Although in Lynk's method the subscriber begins to speak immediately after an access to a channel is requested, it does not teach of transmitting audio with the access request and of a computer-readable medium carrying instructions; and direct transmitting of audio broadcast from the wireless communication device before receiving an acknowledgement that the access request is granted or denied.

In related art concerning a mobile radio system, Stevens teaches of transmitting audio with the access request, where the audio includes speech (columns 3 and 4 lines

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25-35 and 5-10 where even if resources are not available the access request and voice message are sent by a user of the group); and a computer-readable medium carrying instructions (pages 11 and 12, lines 34-37 and 1-14); from the wireless communication device before receiving an acknowledgement that the access request is granted or denied (page 4, lines 5-10; where the presence of speech indicates an access request), and direct transmission of audio broadcast link (pages 3, 4, 5 and 6; lines 25-35, 5-10, 37 and 1-12, respectively; where the access request and message are sent almost simultaneously; e.g., in push-to talk systems, the user presses the button and starts talking immediately after and the BS broadcasts information directly to each of the mobile stations when access is granted).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's method where the subscriber begins to speak immediately and Steven's access in order to allow a larger number of units to be served, as taught by Steven

Lynk and Stevens do not teach of terminating the audio transmission in the event the access request is denied.

However, Examiner takes "Official Notice" of Lynk's and particularly Steven's admission where is well known in the art of terminating the audio transmission in the event the access request is denied (pages 3 and 4, lines 36-37 and 1-3, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's and Steven's method of sending an access request and voice message with the prior art where a call is terminated if resources are

not available, in order to save storage capacity in the system.

Regarding claims 2, 14 and 21, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1, 12 and 20, respectively.

Stevens further teaches where transmitting audio includes transmitting the audio immediately following transmission of the access request (pages 3, 4, 5 and 6; lines 25-35, 5-10, 37 and 1-12, respectively; where the access request and message are sent almost simultaneously; e.g., in push-to talk systems, the user presses the button and starts talking immediately after).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's and MPEP 2144.03's method of sending an access request and voice message with Steven's further transmitting the audio immediately following transmission of the access request in order to decrement delay time.

Regarding claims 4, 16 and 23, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1, 12 and 20, respectively. Lynk further teaches where transmitting audio includes transmitting the audio without receiving an acknowledgement that the access request is granted and without receiving an acknowledgment that the access request is denied (column 7, lines 5-8; where the audio is transmitted before an acknowledgement/denial is received. In addition, it is not important to receive this information as long as the connection is done).

Regarding claim 6, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 1. Lynk further teaches comprising receiving an acknowledgement that the access request is granted during transmission of the audio (column 6, lines 44-54).

Regarding claim 7, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 1. Lynk further teaches of receiving the denial of the access request from an arbitration controller (column 7, lines 49-53).

Regarding claims 8 and 25, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1 and 20, respectively.

Stevens further teaches transmitting the audio to the broadcast link via wireless network equipment (figure 1, where radio communication systems transmit data wirelessly).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven and MPEP 2144.03's method of sending an access request and voice message with Steven's further teaching of transmitting the audio wirelessly in order to comply with a preferable communication form, as taught by Stevens.

Regarding claim 9, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 1.

Stevens prior art admission according to MPEP further teaches of receiving the denial of the access request from a wireless communication device in the system via a wireless base station (pages 3 and 4, lines 36-37 and 1-3, respectively; where the BS

sends a wireless radio message to the MS; where the BS receives the indication from the MS when the BS is busy with another party or off).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven and MPEP 2144.03's method of sending an access request and voice message with Steven's further receiving the denial of the access request from a wireless communication device in the system via a wireless base station in order to disconnect those units that are not available, as taught by the admitted prior art in the reference Steven.

Regarding claim 10, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 1. Lynk further teaches of generating the denial of the access request within a wireless communication device that presently has access to the broadcast link (column 7, lines 49-52).

Regarding claim 11, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claim 1. Lynk further teaches of transmitting the access request in response to actuation of a push-to-talk input medium associated with a wireless communication device (column 5, lines 20-24).

Regarding claims 5 and 24, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1 and 20, respectively.

Stevens further teaches where at least a portion of the audio transmission serve as the access request (page 4, lines 5-10; where the presence of speech indicates an access request).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's and MPEP 2144.03's method of sending an access request and voice message with Steven's further access request feature in order to avoid having to wait until an access to the channel is granted, as taught by Steven.

6. Claims 3, 12, 15, 17-19, 22, 26, 28-32, 34-36 and 38, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynk in view of Stevens and further in view of MPEP 2144.03 and further in view of Velius, George A. (Velius, US Patent No.: 5,594,784 A).

Regarding claims 12, 26 and 34-35, Lynk teaches of a method, a computer-readable medium carrying computer-executable instructions that cause a processor in the network equipment to execute the present method and arbitration controller for a point-to-multipoint communication system (figures 2 and 3; items 21, 47 and 35, respectively; abstract, lines 1-2), comprising: transmitting and receiving a request for access to a broadcast link in a point-to-multipoint communication system (column 5, line 35-38, column 2, lines 47-54 and figure 1; abstract, lines 1-8; e.g., "dispatch service" corresponds to a point-to-multipoint communication system). Lynk further teaches of receiving audio from a user of the wireless communication device, (where the Examiner has given a broad interpretation of the claim; therefore, the audio can be received anywhere in the system/network, the device can be receiving audio from the user).

Although in Lynk's method the subscriber begins to speak immediately after an access to a channel is requested, it does not teach of transmitting audio with the access

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request and of a computer-readable medium carrying instructions; and direct transmitting of audio broadcast from the wireless communication device before receiving an acknowledgement that the access request is granted or denied.

In related art concerning a mobile radio system, Stevens teaches of transmitting audio with the access request, where the audio includes speech (columns 3 and 4 lines 25-35 and 5-10 where even if resources are not available the access request and voice message are sent by a user of the group); and a computer-readable medium carrying instructions (pages 11 and 12, lines 34-37 and 1-14); from the wireless communication device before receiving an acknowledgement that the access request is granted or denied (page 4, lines 5-10; where the presence of speech indicates an access request), and direct transmission of audio broadcast link (pages 3, 4, 5 and 6; lines 25-35, 5-10, 37 and 1-12, respectively; where the access request and message are sent almost simultaneously; e.g., in push-to talk systems, the user presses the button and starts talking immediately after and the BS broadcasts information directly to each of the mobile stations when access is granted).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's method where the subscriber begins to speak immediately and Steven's access in order to allow a larger number of units to be served, as taught by Steven

Lynk and Stevens do not teach of terminating the audio transmission in the event the access request is denied.

However, Examiner takes "Official Notice" of Lynk's and particularly Steven's admission where is well known in the art of terminating the audio transmission in the event the access request is denied (pages 3 and 4, lines 36-37 and 1-3, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's and Steven's method of sending an access request and voice message with the prior art where a call is terminated if resources are not available, in order to save storage capacity in the system.

Although it is implicit in the prior art of record where audio is sent before an access request is accepted or denied, the examiner is introducing a new reference that explicitly shows of transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied.

In related art concerning an apparatus and method for transparent telephony utilizing speech-based signaling for initiating and handling calls, Velius teaches transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied (columns 7 and 8, lines 10-16 and 5-10, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's and MPEP 2144.03's method of sending an access request and voice message with Velius's explicit teaching of the access request acceptance and denial in order to allow the receiving party to receive calls depending on availability and preference, as taught by Velius.

Regarding claims 15 and 30, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claims 12 and 26, respectively. Lynk also teaches transmitting the indication that the access request is granted after receiving at least a portion of the audio (page 5, columns 41-44, where the processing time of the BS is going to be longer than the time it takes for the audio coming behind the access request to be received; therefore, at least a portion of the audio is received before the access is granted).

Although it is implicit in the prior art of record where audio is sent before an access request is accepted or denied, the examiner is introducing a new reference that explicitly shows of transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied.

In related art concerning an apparatus and method for transparent telephony utilizing speech-based signaling for initiating and handling calls, Velius teaches transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied (columns 7 and 8, lines 10-16 and 5-10, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's, MPEP 2144.03's and Velius's method of sending an access request and voice message with Velius's explicit teaching of the access request acceptance and denial in order to allow the receiving party to receive calls depending on availability and preference, as taught by Velius.

Regarding claims 3 and 22, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claims 1 and 20, respectively. Lynk also teaches where transmitting audio includes transmitting the audio before receiving an acknowledgement that the access request is granted (page 5, columns 41-44).

Although it is implicit in the prior art of record where audio is sent before an access request is accepted or denied, the examiner is introducing a new reference that explicitly shows of transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied.

In related art concerning an apparatus and method for transparent telephony utilizing speech-based signaling for initiating and handling calls, Velius teaches transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied (columns 7 and 8, lines 10-16 and 5-10, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's, MPEP 2144.03's and Velius 's method of sending an access request and voice message with Velius's explicit teaching of the access request acceptance and denial in order to allow the receiving party to receive calls depending on availability and preference, as taught by Velius.

Regarding claim 17, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claim 12.

Stevens further teaches where at least a portion of the audio transmission serve as the access request (page 4, lines 5-10; where the presence of speech indicates an access request).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's, MPEP 2144.03's and Velius method of sending an access request and voice message with Steven's further access request feature in order to avoid having to wait until an access to the channel is granted, as taught by Steven.

Regarding claim 18, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claims 1 and 12.

Stevens prior art admission according to MPEP further teaches of receiving the denial of the access request from a wireless communication device in the system via a wireless base station (pages 3 and 4, lines 36-37 and 1-3, respectively; where the BS sends a wireless radio message to the MS).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven, MPEP 2144.03's and Velius method of sending an access request and voice message with Steven's further receiving the denial of the access request from a wireless communication device in the system via a wireless base station in order to disconnect those units that are not available, as taught by the admitted prior art in the reference Steven.

Regarding claim 19, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claim 12. Lynk further teaches of generating the denial of the access

request within a wireless communication device that presently has access to the broadcast link (column 7, lines 49-52).

Regarding claim 28, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claim 26.

Stevens further teaches where the processor directs transmission of an indication that the access request is granted or denied (page 12, lines 28-31; where TETRA radio systems comprise both processor and controllers to perform allocation of channels; thus, access and denial of resources).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk, Steven, MPEP 2144.03's and Velius method of sending an access request and voice message with Steven's further access and denial in order to maintain control of the system, as taught by Steven.

Regarding claim 29, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claim 26. Link further teaches where the transmitter transmits an indication that the access request is granted or denied (column 8, lines 10-17).

Regarding claim 31, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claim 26. Lynk further teaches of transmitting the access request in response to actuation of a push-to-talk input medium associated with a wireless communication device (column 5, lines 20-24).

Regarding claim 32, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claim 26. Stevens further teaches where the processor resides within a

network server in a wide area network associated with network equipment in the point-to-multipoint communication system (where figure 1 represents a WAN).

Regarding claim 36, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claim 35.

Stevens further teaches where at least a portion of the audio transmission serve as the access request (page 4, lines 5-10; where the presence of speech indicates an access request).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's, MPEP 2144.03's and Velius method of sending an access request and voice message with Steven's further access request feature in order to avoid having to wait until an access to the channel is granted, as taught by Steven.

Regarding claim 38, Lynk teaches of a method, (abstract, lines 1-2), comprising: transmitting an access request from a wireless communication device to network equipment (column 3, lines 42-55, where network equipment can be the MS itself, BS, BSC, etc.), the access request including a request or access to a broadcast link in a point-to-multipoint communication system (column 5, line 35-38, column 2, lines 47-54 and figure 1; abstract, lines 1-8; e.g., "dispatch service" corresponds to a point-to-multipoint communication system). Lynk further teaches of receiving speech from a user of the wireless communication device, (42-48, where the mobile unit receives the speech from the user and where the Examiner has given a broad interpretation of the

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claim; therefore, the audio can be received anywhere in the system/network, the device can be receiving audio from the user).

Although in Lynk's method the subscriber begins to speak immediately after an access to a channel is requested, if interpreted broadly, the speech is transmitted to a network equipment (itself) before the wireless communication device receives an acknowledgment from the network equipment that the access request is granted and before the wireless communication device receives an acknowledgement from the network equipment that the access request is denied; and terminating the speech transmission from the wireless communication device to the network equipment in the event the access is denied (the examiner will provide a different references as further explanation for this teaching),

In related art concerning a mobile radio system, Stevens teaches of transmitting the speech from the wireless communication device before the wireless communication device receives an acknowledgment from the network equipment that the access request is granted (columns 3 and 4 lines 25-35 and 5-10 where even if resources are not available the access request and voice message are received by the BS); and before the wireless communication device receives an acknowledgement from the network equipment that the access request is denied (page 4, lines 5-10; where the presence of speech indicates an access request); and terminating the speech transmission from the wireless communication device to the network equipment in the event the access is denied (pages 3 and 4, lines 36-37 and 1-3, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's method where the subscriber begins to speak immediately and Steven's access in order to allow a larger number of units to be served, as taught by Steven.

Lynk and Stevens do not teach of terminating the audio transmission in the event the access request is denied.

However, Examiner takes "Official Notice" of Lynk's and particularly Steven's admission where is well known in the art of terminating the audio transmission in the event the access request is denied (pages 3 and 4, lines 36-37 and 1-3, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's and Steven's method of sending an access request and voice message with the prior art where a call is terminated if resources are not available, in order to save storage capacity in the system.

Although it is implicit in the prior art of record where audio is sent before an access request is accepted or denied, the examiner is introducing a new reference that explicitly shows of transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied.

In related art concerning an apparatus and method for transparent telephony utilizing speech-based signaling for initiating and handling calls, Velius teaches transmitting audio before receiving an acknowledgement that the access request is

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granted and before receiving an acknowledgement that the access request is denied (columns 7 and 8, lines 10-16 and 5-10, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's, and MPEP 2144.03's method of sending an access request and voice message with Velius's explicit teaching of the access request acceptance and denial in order to allow the receiving party to receive calls depending on availability and preference, as taught by Velius.

Regarding claims 15 and 30, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claims 12 and 26, respectively. Lynk also teaches transmitting the indication that the access request is granted after receiving at least a portion of the audio (page 5, columns 41-44, where the processing time of the BS is going to be longer than the time it takes for the audio coming behind the access request to be received; therefore, at least a portion of the audio is received before the access is granted).

Although it is implicit in the prior art of record where audio is sent before an access request is accepted or denied, the examiner is introducing a new reference that explicitly shows of transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied.

In related art concerning an apparatus and method for transparent telephony utilizing speech-based signaling for initiating and handling calls, Velius teaches transmitting audio before receiving an acknowledgement that the access request is

granted and before receiving an acknowledgement that the access request is denied (columns 7 and 8, lines 10-16 and 5-10, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's and MPEP 2144.03's and Velius method of sending an access request and voice message with Velius's further explicit teachings of the access request acceptance and denial in order to allow the receiving party to receive calls depending on availability and preference, as taught by Velius.

Regarding claims 3 and 22, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claims 1 and 20, respectively. Lynk also teaches where transmitting audio includes transmitting the audio before receiving an acknowledgement that the access request is granted (page 5, columns 41-44).

Although it is implicit in the prior art of record where audio is sent before an access request is accepted or denied, the examiner is introducing a new reference that explicitly shows of transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied.

In related art concerning an apparatus and method for transparent telephony utilizing speech-based signaling for initiating and handling calls, Velius teaches transmitting audio before receiving an acknowledgement that the access request is granted and before receiving an acknowledgement that the access request is denied (columns 7 and 8, lines 10-16 and 5-10, respectively).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's and MPEP 2144.03's method of sending an access request and voice message with Velius's explicit teaching of the access request acceptance and denial in order to allow the receiving party to receive calls depending on availability and preference, as taught by Velius.

7. Claims 13, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynk in view of Stevens and MPEP 2144.03 and further in view of Skemer, Terry (Skemer, US Pub. No.: 2007/0,005,954 A1).

Regarding claim 13, Lynk, Stevens and MPEP 2144.03 teach all the limitations of claims 1.

Although it is implicit in the prior art of record where of discarding of audio in the event of an access request being denied, the Examiner is introducing a new reference that explicitly shows this limitation.

In related art concerning a distributed subscriber management system, Skimmer teaches discarding of audio in the event of an access request being denied, the Examiner is introducing a new reference that explicitly shows this limitation (paragraph 2).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's and MPEP 2144.03's method of sending an access request and voice message with Skimmer's teachings of the known fact of discarding of packages in order to save resources (e.g., bandwidth), as taught by Skimmer.

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8. Claim 27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynk in view of Stevens, MPEP 2144.03 and Velius and further in view of Skemer, Terry (Skemer, US Pub. No.: 2007/0,005,954 A1).

Regarding claims 13 and 27, Lynk, Stevens, MPEP 2144.03 and Velius teach all the limitations of claims 1 and 26, respectively.

Although it is implicit in the prior art of record where of discarding of audio in the event of an access request being denied, the Examiner is introducing a new reference that explicitly shows this limitation.

In related art concerning a distributed subscriber management system, Skimmer teaches discarding of audio in the event of an access request being denied, the Examiner is introducing a new reference that explicitly shows this limitation (paragraph 2).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to use combine Lynk's, Steven's, MPEP 2144.03's and Velius's method of sending an access request and voice message with Skimmer's teachings of the known fact of discarding of packages in order to save resources (e.g., bandwidth), as taught by Skimmer.

(10) Response to Argument

9. Appellant's arguments filed 4/12/2007 have been fully considered but they are not persuasive.

10. In the remarks, the appellant argues in substance:

(A) “Prima facie obviousness has not been established...the cited references, taken alone or in combination, fail to teach or suggest all of the limitations of Appellant’s claims.”

In response to argument (A), the examiner would like to indicate where the Lynk and Stevens references deal with sending voice along with an access request in order to make a connection, in addition, both references store the voice while waiting an access grant notification. The Velius, Skemer are general references that deal with access request in communications systems, and are complementary references used to further illustrate features that are well know to those of ordinary skill in the art. Therefore, the combination of the references is proper.

(B) “Lynk, Stevens, Velius, Skemer and the Official Notices of record do not teach or suggest transmission of audio with an access request.”

In response to argument (B), the examiner would like to indicate where the claimed with is not necessarily, simultaneously. Therefore, Lynk teaches in column 3, lines 43-50; e.g., “a trunked radio subscriber requesting dispatch service to transmit a request for a channel and waiting to receive permission to access the channel.”
immediately begin to speak without waiting to receive permission to access the channel.
“ Where the user makes a request for a channel and where the access request is transmitted along with the voice.

The examiner would like to point out where the appellant provides an alternative embodiment in paragraph 49 where “the audio communication may be buffered by

WCD 2 pending the result of the arbitration”. Therefore, given a broad interpretation, Lynk alone, as cited above, reads on the limitation considering paragraph 49.

However, given *arguendo*, giving a narrower interpretation to the claims, the examiner further introduced Stevens to teach where the access request and the voice are both sent/transmitted to another device in the system (e.g., base station); the audio/message is stored at other locations different from the originating/requesting mobile station (e.g., base station, Stevens, pages 5 and 6, lines 37 and 1-7). The applicants’ arguments seem to rest on the data being buffered at the mobile station. Where the voice stored at the BS is evidence of the audio and access request having been transmitted by the originating mobile station and received at the BS. Where the voice is temporarily buffered at the BS, while waiting for an access grant/denial. Therefore, since the audio has been sent to the BS to be buffered while awaiting authorization of the request, the audio has therefore been transmitted along with the voice.

(C) “The final Office Action, as well as the prior Office actions communications of record, do not specifically address”, ‘receiving audio before transmission of an indication that the access request is granted and before transmission of an indication that the access request is denied...’, “processor determining whether to grant the access request...”.

In response to argument (C), the examiner would like to explain where as mention in point (B) above, “Where the voice stored at the BS is evidence of the audio and access request having been transmitted by the originating mobile station and

received at the BS. Where the voice is temporarily buffered at the BS, while waiting for an access grant/denial.”; therefore, the base station receives the access request and the voice transmitted by the originating/requesting mobile station. In addition, it is well known to one of ordinary skill in the art where base stations have processing means and where decisions are processed by the processing means. The decision to grant or deny access to the system/channel is at least decided when "no communication path is available" (channel is busy, the receiving party is engaged in another call, receiving party won't answer the call, etc.; Stevens, pages 5 and 6, lines 37 and 1-7, respectively; page 3, lines 11-35).

(D) “Stevens and Lynk do not refer to terminating an audio transmission upon denial of an access request”.

In response to argument (D), the examiner would like to explain where eventually transmission of the voice is terminated upon denied of an access request, the termination of the transmission does not have to be done immediately. E.g., transmission of voice is terminated when the voice is discarded, after being stored, the final transmission to the destination is not completed if no resources are available (Stevens, pages 6 and 11, lines 34-37 and 22-27, respectively). In addition, it is known in the art where when resources are not available, access denied, the transmission is ended once a refusal to connect takes place. (Stevens, pages 2 and 3, lines 36-37 and 1-3, respectively)

(E) “arbitration controller...interprets at least a portion of the audio transmission as the access request... Lynk, Stevens, Velius, Skemer do not make any mention of such feature.”

In response to argument (E), the examiner would like to explain where Velius is more explicit about this limitation (column 7, lines 10-16, where the voice commands perform the dialing which request the access).

(F) In page 23, the appellant argues, “The cited passage does not explicitly or implicitly indicate anything in regard to the processing of an access request by a wireless communication device”.

In response to argument (F), the examiner would like to explain where, at least, when “the target mobile radio unit is being engaged on another call”, a busy signal is sent to the base station, thus, an access request deny signal is processed and sent by the target mobile device (Stevens, page 3, lines 11-18).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

June 26, 2008

Conferees:

/Perez M. Angelica/

Examiner, Art Unit 2618

/Matthew D. Anderson/

Supervisory Patent Examiner, Art Unit 2618

/Edward Urban/

Supervisory Patent Examiner, Art Unit 2618